

In response to the Examiner's rejections, then, because Applicant, in the specification, has not explicitly defined the term "asymmetrical" as being limited to describing a passageway having an oval circumference, it is not believed that Applicant has employed the term "asymmetrical" with as specific a definition as suggested by the Examiner (or given it any definition other than that which is known and customary). Furthermore, Applicant has not defined the word "asymmetrical" in any way which contravenes its known meaning. Most importantly, it is noted that nowhere in the specification is the term "asymmetrical" explicitly, or even implicitly, limited to describing an oval. In this regard, in the area of the specification at issue, Applicant merely describes one embodiment of the invention in which the passage of the weight "resembles" an oval in shape. For this reason, and in particular because Applicant does not define the subject term as suggested, the Examiner's numerous rejections regarding the recitation of the term "asymmetrical" in the claims are believed to be erroneous, and withdrawal of the subject rejections is therefore respectfully requested.

In a similar rejection, the Examiner rejects claim 5 as reciting subject matter which was not described in the specification in a way which allows one of ordinary skill in the art to understand the scope of the claim thereof. In this regard, the Examiner states that Applicant has not described or shown an embodiment of a weight having a passage having an asymmetrical circumference in one section and a symmetrical circumference in another section. Regarding such an embodiment, the Examiner is requested to direct his attention to page nine of the specification. In the last paragraph on page nine, therein is described an embodiment in which there is a passage in a weight, such passage having a constriction therein. Because various other passages in the application are shown or described as symmetrical or circular, for example (either the drawings or in words), and because page nine describes an embodiment in which a "constriction" is formed in one of such passageways, for example, it should be immediately understood how a passageway can have an symmetrical circumference in one portion and an asymmetrical circumference in another portion. Claim 5, in this regard, merely claims an embodiment of the invention having such features without describing the specific configurations of both the asymmetrical and symmetrical circumferences (i.e. they are not specifically claimed as circular or square, etc.). Therefore, because the recitation of claim 5 is both believed to be supported by the application as filed as well as definite in its recitation, withdrawal of the rejection thereof is hereby respectfully requested.

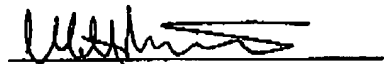
Turning now to the rejections over the prior art, the Examiner has rejected claims one and two as being anticipated by the Sasaki reference. In this regard, by rejecting claims one and two for non-novelty, the Examiner is asserting that there is no structural difference between the invention as claimed and the structure disclosed in the Sasaki reference. Nevertheless, even with only a cursory glance at the cited prior art reference, however, it is quite clear that not only is the Sasaki reference non-analogous art (and therefore not citable against the claims of the subject invention.), but even if analogous art, does not disclose any of structure which closely resembles that of the subject invention (and certainly does not disclose a structure which is structurally identical as required by the 102 statute).

In this regard, in the rejections at issue, the Examiner directs Applicant to part numbers 11 and 13 and then relies on the illustration of such part numbers in figure 3 as a basis for the 102 rejection. Firstly, however, it is noted that the circumferences of both part numbers 11 and 13 are each entirely symmetrical and therefore do not accomplish the functionalities described in the specification of the instant invention e.g. constricting the walls of a flexible straw type material thereby to retain a weight along the walls of the straw. Furthermore, even if the weight described in the Sasaki patent did have an asymmetrical inner circumference (or at least a portion thereof which is asymmetrical), because the shaft over which the Sasaki weight is inserted is rigid (i.e. the sides are nonflexible), the weight described in the Sasaki reference would not be capable of constricting the sides of the Sasaki shaft and therefore would not have the same functionality as that claimed in the instant invention (e.g. restraining by constriction). For the foregoing reasons, then, and principally because the Sasaki patent does not disclose a weight having an inner passageway with an asymmetrical circumference, the Examiner's prior art rejections are believed to be erroneous, and reconsideration thereof is hereby respectfully requested.

Although all issues are believed to have been resolved by the Remarks contained herein and all claims are now believed to be allowable, if any additional issues are determined to remain, the Examiner is respectfully invited to contact the undersigned telephonically so that any such issues can be most expeditiously resolved. Furthermore, although no fees are believed to be due with this response, if any fees are required, please charge them to Deposit Account 50-0644.

Respectfully submitted,

Date: 9-15-2004


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been duly furnished to the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, via facsimile this 15th day of September 15, 2004.



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